

Kevin G. Holmes

04/11/2005

40

1 housings. Actually, we've had front engine covers or
2 engine cover structure leaks. Primarily that's what
3 we've seen.

4 Q. Would you say that you've seen an
5 abnormally high number of those problems in Trans-Spec's
6 Sterling trucks since 2000?

7 MR. GRUNERT: Object to the form.

8 A. Considering what we had seen prior to for
9 work, yes.

10 Q. Is it common to have flywheel housing
11 failures? Is that a common repair that you make?

12 A. No, it is not.

13 Q. How often on an engine -- let's use the
14 base of 900,000 miles. How often would a flywheel
15 housing break or crack, if at all?

16 A. Unfortunately so -- I mean, we may have
17 seen maybe three or four in the, you know, life of our
18 service department here. There's not -- there's not
19 many that we see.

20 Q. Three or four on the same engine? Or three
21 or four --

22 A. Overall.

23 Q. Overall?

24 A. Yes.

EXHIBIT

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A

Kevin G. Holmes

04/11/2005

1 Q. So when you say that you've only seen three
2 or four flywheel housing failures overall, that means
3 your entire history in all other engines other than the
4 C-12, the Trans-Spec issue?

5 A. At least within my Tri State tenure, yes --
6 as the owner, yes.

7 Q. So you've only seen three or four outside
8 of the C-12, and you've personally seen four or five
9 just in Trans-Spec's Sterling engines alone?

A. Yes, sir.

12 Q. How about flywheel bolt failures? Is that
13 a common problem with the C-12 specifically?

14 A. We have seen them with another fleet as
15 well, yes.

16 Q. What fleet is that?

17 A. R&M Leasing.

18 Q. And they have C-12s?

19 A. They did have C-12s, yes.

20 Q. What do they have now?

21 A. They presently have Caterpillar C-13
22 engines.

23 Q. What problems did they routinely have with
24 their C-12s?

25 A. For the record, it wasn't routinely.

Kevin G. Holmes

04/11/2005

47

1 Q. But you'd seen this happen in other of
2 Trans-Spec's Sterling trucks that they've brought in
3 with the Caterpillar C-12 engines?

4 A. Yes.

5 Q. On the next page, on 580 of this packet,
6 can you describe for me the four photographs that you
7 see there and what they represent.

8 A. Again, similarly, we have the same damage,
9 cracked flywheel housings, as we did in the prior
10 pictures.

11 Q. Have you ever seen anything routinely like
12 this before the Trans-Spec C-12?

13 A. Routinely, no, we have not.

14 Q. So this is an abnormality to see bell
15 housings in this condition?

16 MR. GRUNERT: Object to the form.

17 A. In the number of failures, yes, that is
18 correct.

19 Q. And is this a complete failure? Or can
20 this be repaired in any way? Or is this --

21 A. No. This is actually detrimental to the
22 vehicle's operation.

23 Q. This would cause widespread problems to the
24 rest of the engine and the rest of the truck?

Kevin G. Holmes

04/11/2005

48

1 MR. GRUNERT: Object to the form.

2 A. Absolutely.

3 Q. What kind of damage would that cause to the
4 truck?

5 MR. GRUNERT: Object to the form.

6 A. Actually, it could cause transmission
7 damage. It could cause drivetrain vibration. Again,
8 this -- this piece of the engine obviously has to have a
9 specific pitch and angle to it so obviously it follows
10 the same angle throughout the driveline. And if not,
11 you can create other problems throughout the vehicle as
12 well.

13 Q. So these failures aren't confined to a
14 simple replacement of the piece; they actually do cause
15 other damage both to the engine and other components?

16 MR. GRUNERT: Object to the form.

17 A. Yes, it may. That's correct.

18 MR. GRUNERT: Could you give me a minute to
19 state my objection? It's hard for the stenographer to
20 take down two people at once.

21 Did you get the objection to that question?

22 MR. SAMITO: I'm sure we're all getting your
23 objections.

24 Q. You can continue answering.

Kevin G. Holmes

04/11/2005

49

1 A. And, as I stated, this actually can cause
2 other problems within the vehicle's drivetrain, cab, et
3 cetera.

4 Q. What sort of specific damage could this
5 cause?

6 MR. GRUNERT: Object.

7 A. Again, through vibration it can loosen
8 components much earlier than the norm just through,
9 again, the vehicle not -- the engine not having its
10 proper balance and creating other problems.

11 Q. Looking at 581 of this exhibit, what do you
12 see there? There's only one picture on this. What do
13 you see there?

14 A. Again, I see the engine flywheel housing
15 cracked. And, again, that is cracked as many of the
16 others that I have viewed here at the dealership as well
17 as in the pictures.

18 Q. Complete failure?

19 A. Yes.

20 Q. And 582?

21 A. 582 again is a single picture, again,
22 having the same failure of a cracked bell housing and,
23 again, leading from the flywheel housing mounting bolts
24 out to the housing itself.

Kevin G. Holmes

04/11/2005

1 A. Al Cardoza has been giving us specifics as
2 to what he requests us to do with these engines.

3 Q. What have those specifics been? What has
4 he been telling you to do with the engines?

5 A. Either replace the flywheel housing or
6 repair the front engine cover leaks.

7 Q. How would you repair the front engine cover
8 leaks? Has he been giving you specifics to repair it?
9 Or is there just a set procedure for doing so?

10 A. Actually, there are set procedures that are
11 obviously there. And obviously we have to follow those.

12 Q. Has he been telling you to patch any of the
13 engines or flywheel housings or flywheel housing bolts
14 or any components?

15 A. There was a unit here, yes, that was
16 patched.

17 Q. Is patching sufficient for these types of
18 problems that you've been seeing in Trans-Spec's C-12
19 engines?

20 MR. GRUNERT: Object to the form.

21 A. Unfortunately so, not in the engine that
22 was here, no.

23 Q. Do you know why Al Cardoza told you to
24 simply patch the engine?

80

Kevin G. Holmes

04/11/2005

81

1 A. Specifically, no, I don't. Obviously, I'm
2 sure, from a cost standpoint, yes.

3 Q. Was it obvious that patching wouldn't be
4 sufficient to make this repair on this engine?

5 A. For the vehicle's longevity, yes.

6 Q. Why?

7 A. Because a piece of the engine block was
8 broken.

9 Q. How did Al Cardoza tell Tri State to patch
10 the engine block?

11 A. He said to put the piece back on and epoxy
12 it.

13 Q. How long did it last? Do you know?

14 A. Unfortunately so, I don't know that now. I
15 believe that's, you know, a vehicle that has not been
16 back here so I would not know that.

17 Q. Did you or -- do you know if the person who
18 was dealing with this particular engine from Tri State,
19 did that person voice any concern with Al Cardoza
20 regarding the insufficiency of that patching?

21 A. I believe there were pictures taken and
22 all, yes.

23 Q. Do you have those pictures?

24 A. Unfortunately so, I don't personally. But

Kevin G. Holmes

04/11/2005

84

1 have a specific number associated with it?

2 A. Actually, they have a specific part number,
3 not a serial number. They have an engine -- a part
4 number designated for that specific engine.

5 Q. Okay. Getting back to the computer system
6 that we were talking about a few moments ago, can you
7 type in a specific engine part number and look up
8 problems that have been happening in trucks for C-12
9 engines for that specific part?

10 A. If you have a range of engine serial
11 numbers specific to the C-12 or any engine or any
12 Caterpillar engine family, you can go into the history
13 and into the warranty -- Caterpillar warranty side and
14 look at -- again, it will not give you specifics as far
15 as what -- you know, what the dealership charged for the
16 job, what was involved other than it will give the claim
17 and will give the failure number. And, obviously, the
18 failure number is associated with whether it be an
19 injector, cylinder head, et cetera.

20 Q. Now, you say that you can't see the history
21 of these unless the repair was done by Tri State?

22 A. You cannot see the warranty story. You
23 cannot see -- every warranty claim that is submitted has
24 to have, obviously, a story that goes with the claim.

Kevin G. Holmes

04/11/2005

1 Q. And that's just what it sounds like? Is it
2 a narrative of --

3 A. Absolutely.

4 Q. -- what was done?

5 A. Absolutely. And you cannot see another
6 dealer's narrative. You can only see the failure. You
7 can see the claim number, and you can see the failure
8 number that represents that failure.

9 Q. But Caterpillar can see all of that?

10 A. Absolutely.

11 Q. Why do you say absolutely?

12 A. Because, obviously, if we can see ours in
13 the system and the dealers can see theirs, then --

14 Q. So everything is in this one system, and
15 you're confined to just seeing a little sliver of that
16 system; but Caterpillar has access to the entire global
17 information that's contained?

18 A. Correct.

19 MR. GRUNERT: Object to the form.

20 Q. Can you repeat that answer?

21 A. Correct.

22 Q. Thank you. So Caterpillar -- can
Caterpillar input a certain part number -- for instance,
flywheel housing -- and call up records of all the

85

Kevin G. Holmes

04/11/2005

1 engines that have had repairs performed regarding that
2 particular part?

3 In other words, can Caterpillar input a certain
4 part number -- for example, flywheel housing for the
5 C-12 engine -- and call up records of all of those
6 engines that had repairs performed regarding that
7 particular part?

8 A. Yes.

9 Q. How about by engine? You said before that
10 each Caterpillar engine block is given a designated
11 serial number?

12 A. That is correct.

13 Q. Can Caterpillar put into its system that
14 serial number and call up the entire global history of
15 that particular engine?

16 A. I would hope so, yes.

17 Q. That number could be used to locate the
18 engine's complete history file in the Caterpillar
19 computer system?

20 A. Yes.

21 Q. So Caterpillar knows what claims are
22 associated with the various engines by part or serial
23 number and can calculate if there's a specific common
24 occurrence among the C-12 model?

Kevin G. Holmes

04/11/2005

1

MR. GRUNERT: Object to the form.

2

A. Yes, I would say so.

4

MR. SAMITO: This will be the next exhibit?

5

(Exhibit No. H, ESC coverage documents, marked.)

6

Q. Looking at Exhibit H, can you tell me what this is on the front page? Do you recognize what this is?

8

A. Yes, I do.

9

Q. Can you describe it for me?

10

A. This is -- as I mentioned earlier, this is the ESC coverage which the customer -- and as you can see by the lower right-hand corner, Harry Calderbank negotiated it at the time of the sale of the units.

14

Q. And on the page -- there's another page in that document that has different -- it says, "Caterpillar On Highway Vehicle Engine Extended Service Coverage Registration Form for Multiple-Unit Registrations." Do you see that page?

19

A. Yes, I do.

20

Q. Can you describe what that is.

21

A. Again, this gives the engine serial number -- I'll start -- it gives the engine model, the engine horsepower rating, the engine serial number. It gives the last six of the vehicle identification

87

Kevin G. Holmes

04/11/2005

90

1 Caterpillar told that customer to perform repairs in
2 house and refused to pay for that customer's labor and
3 parts, would that be a breach of the warranty?

4 MR. GRUNERT: Object. Form and competence.

5 A. Given the information, I would believe so,
6 yes.

7 Q. Going back to Trans-Spec's specific
8 problems, you spoke a little bit about the frequency of
9 flywheel housings failing. If I referred you to the
10 history of Truck No. 6300: December 7th, 2001, a
11 flywheel housing broke; September 9th, 2002, a flywheel
12 housing broke; February 6th, 2003, a flywheel housing
13 broke; November 17th, 2003, a flywheel housing broke;
14 September 29th, 2004, a flywheel housing broke; and that
15 vehicle presently has a broken flywheel housing; all of
16 them have been repaired, what would you say? Would that
17 be surprising?

18 MR. GRUNERT: Object to the form.

19 A. Absolutely.

20 Q. Why?

21 A. Because it's just inconceivable that a
22 truck could have that number of flywheel housings fail
23 and not have further problems.

Q. How about the fact that a flywheel housing

Kevin G. Holmes

04/11/2005

91

1 broke on February 6th, 2003, and November 17, 2003, two
2 housing failures roughly nine months apart?
3 Surprising?

4 MR. GRUNERT: Object to the form.

5 A. Absolutely.

6 Q. Have you ever seen anything like that
7 before in your years in this business?

8 A. No, I have not.

9 Q. Under the extended service coverage, what
10 should have happened with these repairs? Would
11 Caterpillar have covered these repairs? Or would the
12 customer have had to lay out any money or perform any of
13 the repairs themselves?

14 MR. GRUNERT: Object to the form.

15 A. Within the given warranty period of the
16 extended service coverage warranty of the 60 months or
17 500,000 miles, obviously, they would be covered by
18 Caterpillar Engine Company.

19 Q. What if on November 17th, 2003, Trans-Spec
20 had to perform a replacement of the flywheel housing and
21 did not receive any reimbursement from Caterpillar,
22 would that be a breach of that service coverage?

23 MR. GRUNERT: Object to the form. Competence.

24 A. Given the 60 months or 500,000 miles --

Kevin G. Holmes

04/11/2005

96

1 Q. Looking at Exhibit J, what service
2 configuration does that describe? What would be the
3 workload of that truck or the intended purpose of that
4 truck based on what you see there?

5 A. Again, this now designates heavy-haul
6 service in the construction segment -- dirt, rock, and
7 sand commodity. And it also shows, which is a key here,
8 too, that, you know, 10 percent of the time in transit
9 is spent on non-paved roads. So, again, construction
10 application.

11 Q. So that means going off the road onto
12 gravel or dirt roads?

13 A. Absolutely.

14 Q. Okay. The engine on the second page, what
15 engine does it specify would be appropriate for this
16 general service configuration?

17 A. It shows a Caterpillar C-13, 430 horsepower
18 at 1550 foot pounds of torque.

19 Q. Would that be appropriate, in your
20 experience, for this kind of general service
21 configuration?

22 A. Again, it's a light-weight alternative, the
23 lightest engine available for that application or for
24 that specification.

Kevin G. Holmes

04/11/2005

97

1 Q. Similar to the C-12 but for the emissions
2 changes?

3 A. Yes.

4 MR. GRUNERT: Object to the form.

5 A. That is what has been changed.

6 Q. To make it comply with emissions
7 regulations?

8 A. That is correct.

9 MR. GRUNERT: Object to the form.

10 Q. But otherwise comparable?

11 MR. GRUNERT: Object to the form.

12 A. Absolutely.

13 Q. And appropriate for this general service
14 configuration?

15 A. Yes.

16 Q. Looking at Exhibit K, can you describe for
17 me what the intended application of this truck would be
based on the general service that you see?

18 A. This one here is spending all of its time
19 on paved roads; again, eight percent expected grade;
20 tractor-trailer configuration. It's actually a 14,000
21 pound front axle, 46,000 pound rear axle. Still an
22 expected GCW of 80,000 pounds.

Q. What kind of haul would this truck be